

## § 665.805

to every longline buoy and float, including each buoy and float that is attached to a radar reflector, radio antenna, or flag marker, whether attached to a deployed longline or possessed on board the vessel. Markings must be legible and permanent, and must be of a color that contrasts with the background material.

(b) *Enforcement action.* Longline gear not marked in compliance with paragraph (a) of this section and found deployed in the EEZ will be considered unclaimed or abandoned property, and may be disposed of in any manner considered appropriate by NMFS or an authorized officer.

## § 665.805 [Reserved]

## § 665.806 Prohibited area management.

(a) *Longline fishing prohibited areas.* Longline fishing is prohibited in the longline fishing prohibited areas as defined in paragraphs (a)(1) through (a)(4) of this section.

(1) *NWHI protected species zone.* The NWHI protected species zone is the portion of the EEZ within 50 nm of the center geographical positions of certain islands and reefs in the NWHI, as follows:

Name	N. lat.	W. long.
Nihoa Island .....	23°05'	161°55'
Necker Island .....	23°35'	164°40'
French Frigate Shoals .....	23°45'	166°15'
Gardner Pinnacles .....	25°00'	168°00'
Maro Reef .....	25°25'	170°35'
Laysan Island .....	25°45'	171°45'
Lisianski Island .....	26°00'	173°55'
Pearl and Hermes Reef .....	27°50'	175°50'
Midway Island .....	28°14'	177°22'
Kure Island .....	28°25'	178°20'

Where the areas are not contiguous, parallel lines drawn tangent to and connecting those semicircles of the 50-nm areas that lie between Nihoa Island and Necker Island, French Frigate Shoals and Gardner Pinnacles, Gardner Pinnacles and Maro Reef, and Lisianski Island and Pearl and Hermes Reef, delimit the remainder of the NWHI longline protected species zone.

(2) *Main Hawaiian Islands (MHI).* The MHI longline fishing prohibited area is the portion of the EEZ around Hawaii bounded by straight lines connecting the following coordinated in the order listed:

Point	N. lat.	W. long.
A .....	18°05'	155°40'
B .....	18°20'	156°25'
C .....	20°00'	157°30'

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Point	N. lat.	W. long.
D .....	20°40'	161°40'
E .....	21°40'	161°55'
F .....	23°00'	161°30'
G .....	23°05'	159°30'
H .....	22°55'	157°30'
I .....	21°30'	155°30'
J .....	19°50'	153°50'
K .....	19°00'	154°05'
A .....	18°05'	155°40'

(3) *Guam.* The Guam longline fishing prohibited area is the portion of the EEZ around Guam bounded by straight lines connecting the following coordinates in the order listed:

Point	N. lat.	E. long.
A .....	14°25'	144°00'
B .....	14°00'	143°38'
C .....	13°41'	143°33'33"
D .....	13°00'	143°25'30"
E .....	12°20'	143°37'
F .....	11°40'	144°09'
G .....	12°00'	145°00'
H .....	13°00'	145°42'
I .....	13°27'	145°51'

(4) *CNMI.* The CNMI longline fishing prohibited area is the portion of the EEZ around the CNMI bounded by straight lines connecting the following coordinates in the order listed:

Point	N. lat.	E. long.
A .....	14°00'	144°34'
B .....	15°49'	145°29'
C .....	16°21'	145°06'
D .....	17°03'	145°22'
E .....	19°07'	145°09'
F .....	20°39'	144°19'
G .....	21°04'	145°06'
H .....	19°19'	146°04'
I .....	16°00'	146°32'
J .....	13°32'	145°32'
A .....	14°00'	144°34'

(b) *American Samoa large vessel prohibited areas.* A large vessel of the United States may not be used to fish for western Pacific pelagic MUS in the American Samoa large vessel prohibited areas as defined in paragraphs (b)(1) and (b)(2) of this section, except as allowed pursuant to an exemption issued under § 665.818.

(1) *Tutuila Island, Manua Islands, and Rose Atoll (AS-1).* The large vessel prohibited area around Tutuila Island, the Manua Islands, and Rose Atoll consists of the waters of the EEZ around American Samoa enclosed by straight lines connecting the following coordinates:

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Point	S. lat.	W. long.
AS-1-A .....	13°41'54"	167°17'
AS-1-B .....	15°23'10"	167°17'
AS-1-C .....	15°23'10"	169°00'42"
AS-1-D .....	15°13'	169°00'42"

and from point AS-1-A westward along latitude 13°41'54" S. until intersecting the U.S. EEZ boundary with Samoa, and from point AS-1-D westward along latitude 15°13' S. until intersecting the U.S. EEZ boundary with Samoa.

(2) *Swains Island (AS-2)*. The Swains Island large vessel prohibited area is the portion of the EEZ around American Samoa enclosed by straight lines connecting the following coordinates:

Point	S. lat.	W. long.
AS-2-A .....	11°48'	171°50'
AS-2-B .....	11°48'	170°20'

and from Point AS-2-A northward along the longitude 171°50' W. until intersecting the U.S. EEZ boundary with Tokelau, and from Point AS-2-B northward along the longitude 170°20' W. until intersecting the U.S. EEZ boundary with Tokelau.

[76 FR 37289, June 27, 2011, as amended at 77 FR 34261, June 11, 2012; 77 FR 71286, Nov. 29, 2012]

### § 665.807 Exemptions for Hawaii longline fishing prohibited areas; procedures.

(a) An exemption permitting a person to use longline gear to fish in a portion(s) of the Hawaii longline fishing prohibited area will be issued to a person who can document that he or she:

(1) Currently owns a Hawaii longline limited access permit issued under this part and registered for use with his or her vessel;

(2) Before 1970, was the owner or operator of a vessel when that vessel landed western Pacific pelagic MUS taken on longline gear in an area that is now within the Hawaii longline fishing prohibited area;

(3) Was the owner or operator of a vessel that landed western Pacific pelagic MUS taken on longline gear in an area that is now within the Hawaii longline fishing prohibited area, in at least 5 calendar years after 1969, which need not be consecutive; and

(4) In any one of the 5 calendar years, was the owner or operator of a vessel that harvested at least 80 percent of its total landings, by weight, of longline-caught western Pacific pelagic MUS in

an area that is now in the Hawaii longline fishing prohibited area.

(b) Each exemption shall specify the portion(s) of the Hawaii longline fishing prohibited area, bounded by longitudinal and latitudinal lines drawn to include each statistical area, as appearing on Hawaii State Commercial Fisheries Charts, in which the exemption holder made the harvest documented for the exemption application under paragraph (a)(4) of this section.

(c) Each exemption is valid only within the portion(s) of the Hawaii longline fishing prohibited area specified on the exemption.

(d) A person seeking an exemption under this section must submit an application and supporting documentation to PIRO at least 15 days before the desired effective date of the exemption.

(e) If the Regional Administrator determines that a gear conflict has occurred and is likely to occur again in the Hawaii longline fishing prohibited area between a vessel used by a person holding an exemption under this section and a non-longline vessel, the Regional Administrator may prohibit all longline fishing in the Hawaii longline fishing prohibited area around the island where the conflict occurred, or in portions thereof, upon notice to each holder of an exemption who would be affected by such a prohibition.

(f) The Council will consider information provided by persons with Hawaii longline limited access permits issued under this part who believe they have experienced extreme financial hardship resulting from the Hawaii longline area closure, and will consider recommendations of the Pelagic Advisory Review Board to assess whether exemptions under this section should continue to be allowed, and, if appropriate, revise the qualifying criteria in paragraph (a) of this section to permit additional exemptions.

(1) If additional exemptions are needed, the Council will advise the Regional Administrator in writing of its recommendation, including criteria by which financial hardships will be mitigated, while retaining the effectiveness of the longline fishing prohibited area.

(2) Following a review of the Council's recommendation and supporting